



# CITY OF LODI

## COUNCIL COMMUNICATION

**AGENDA TITLE:** Request for Oversizing of Sewer Line South of Harney Lane (Kjeldsen-Sinnock Report)

**MEETING DATE:** October 21, 1992

**PREPARED BY:** City Attorney

**RECOMMENDED ACTION:** Council consideration and direction.

**BACKGROUND:** At the October 7, 1992 meeting, the City Council was asked by owners of property south of Harney Lane to allow oversizing of a sewer line presently planned to serve the Century Meadows project. The oversizing would provide capacity for (among other things) the property now designated "Planned Residential Reserve" in the General Plan.

Discussions occurred on a number of points, including whether the proposal could be viewed as a change in the development policies contained in the General Plan, and whether environmental clearance would be required. A number of related questions also came up which still have not been answered, such as the actual cost of the oversizing and how much redesign of planned infrastructure would be necessary if this is approved. Some of these points are discussed in the memo from Public Works Director Jack Ronsko (Attachment A).

The proposal was also considered by the Planning Commission at its meeting of October 12, 1992. A recommendation to the City Council was adopted by a 3 - 2 vote to postpone consideration of this matter until the next General Plan update (see Planning Commission report).

Since the last meeting, I have remained in contact with the attorney for the landowners and legal research has continued. While the search has not turned up a completely dispositive answer, I still believe the most cautious approach would be to prepare an environmental impact report. The proponents in good faith feel a negative declaration would be sufficient and are prepared to pay the City's legal costs if the decision is challenged (see letter of October 5, 1992 from attorney Steven Herum, Attachment B).

This is predominantly a question of policy. If the Council desires to move forward on the request, it is possible the action could be challenged. If that occurs, the critical questions would then include:

1. Is this really a change to the General Plan requiring the formalities of a General Plan amendment?

APPROVED

  
THOMAS A. PETERSON

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2. Can the project be accanplished by a negative declaration or  
would a full EIR be required?

Practical considerations would also have to be addressed including a determination of what, if any, redesign of existing plans for infrastructure would be necessary and how the question of reimbursement would be handled. We still do not know whether the proposed oversized could be accomplished concurrently with the present construction plans without undue delay.

If the Council wishes to move forward on this proposal, it is recommended that an agreement with the proponents first be executed addressing these and any other concerns.

**FUNDING:** Unknown.

Respectfully submitted,

  
\_\_\_\_\_  
Bob McNatt  
City Attorney

Attachments A and B

BM/vc

**Note:** Exhibit C is the Planning Commission Report of October 12, 1992  
*attached*



## CITY OF LODI

**EXHIBIT A**

## COUNCIL COMMUNICATION

**AGENDA TITLE:** Sanitary Sewer Service Request South of Harney Lane,  
Southern Pacific Railroad (SPRR) to Lower Sacramento Road

**MEETING DATE:** September 22, 1992

**PREPARED BY:** Public Works Director

**RECOMMENDED ACTION:** Discussion and appropriate direction.

**BACKGROUND INFORMATION:** The new General Plan and Growth Management Plan, which provide for two percent population growth, established three priority areas for residential development. (Commercial and industrial development is not governed by the Growth Management Plan.) These priority areas did not include any land south of Harney Lane. This land was all designated "Planned Residential Reserve" (PRR) in the General Plan. The General Plan calls for these areas to remain agricultural until they are redesignated with a General Plan amendment, presumably after the year 2007. The PRR designation assumed some mix of nonresidential development would be included. During the hearings, some of the property owners south of Harney Lane, adjacent to Uest Lane (South Hutchins Street), requested that the City consider sewer service to their property. The Council directed staff to do so, although no time frame or funding was discussed.

In subsequent discussion with one of the property owners, Carl Fink, staff indicated the appropriate time to do the study would be prior to the next General Plan update, or possibly sooner if construction of improvements in the area south of Century Boulevard would affect their property. In any event, staff would need Council direction on which property is to be served in order to do a study.

On November 6, 1991, the Council heard a formal request from various property owners in the area. The Council told the owners they were free to have a study done if they wished to do so. The Owners contracted with Kjeldsen Sinnock & Associates of Stockton to do the study which was submitted to the City in August 1992 (Exhibit A). The study considered service to 302 acres south of Harney Lane, from the SPRR tracks to Lower Sacramento Road (see Figure 3.1, page 20). Two alternate lift station sites were considered (Alternates 3 and 4) and compared to the same sites serving only the area north of Harney Lane (Alternates 1 and 2). Alternate 1 is generally the same as the existing Master Plan. (The consultants recommended a change in the service area in which staff only partially concurs. However, for the purposes of this discussion, the difference is minor.)

**APPROVED.** \_\_\_\_\_

THOMAS A. PETERSON

City of Lodi

Staff has reviewed this study and, except for some relatively minor technical considerations (pipe and pump sites), agrees ~~that~~ the ~~recommended~~ design can work to serve the larger service area. This is not to say that their ~~recommended~~ plan is not without some questions and problems, some of which must be answered ~~immediately~~. They are:

- 1) The plan calls for a 21-inch gravity sewer in Mills Avenue, extending south from Century Boulevard. This would presumably be built as the area develops. However, this land already ~~has~~ conditionally approved tentative maps which do not include this requirement. Utility plans have been done for these projects and, unless the owners are willing to change their plans, the City may have a difficult time requiring the change. The question of who will pay for the oversize line (approximately \$46,000) must also be answered.
- 2) The plan calls for a larger lift station and gravity sewers in Harney Lane. These lines will be up to 25 feet deep which will require nearly all the Harney Lane right of way to construct. The additional cost of gravity lines in Harney Lane and larger lift station is roughly \$166,000 above the cost of the present plan. This additional cost must be borne by someone as the area north of Harney Lane develops (Exhibit B).

Aside from these technical issues, the other effects of deciding on this request need to be ~~considered~~. This decision could be construed as committing the City to the area to be developed in the next phase of the General Plan. At presently adopted, the General Plan identifies the area bounded by Harney Lane, Highway 99, Armstrong Road, and one-fourth mile west of Lower Sacramento Road as Planned Residential Reserve. No specific subarea was identified as having priority.

The major sewer necessary to serve this area is shown on Exhibit C. This sewer runs east-west, well south of Harney Lane. As an interim solution to extending the sewer to the ~~outfall~~ line ~~west~~ of Lower Sacramento Road, a lift station would pump sewage north to Century Boulevard, depending on which area develops first.

Unless the proponents ~~were~~ willing to pay all the additional "up front" costs, the City would have to change ~~the~~ Master Plan and General Plan in order to require other developers to build ~~these~~ facilities as they develop and be reimbursed later as land south of Harney Lane develops. Designating this 302 acres for development would also require a redesign of the drainage system for the area south of Harney Lane.

#### RECOMMENDATION

At this point, staff is unable to make a recommendation. In general, we feel the issue of development south of Harney Lane should be deferred until a full General Plan update when all the issues, alternatives and environmental impacts can be properly addressed with full public input.

Sanitary Sewer Service Re st South of Harney Lane,  
Southern Pacific Railroad (SPRR) to Lower Sacramento Road  
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FUNDING: To be determined.

  
Jack D. Ronsko  
Public Works Director

Prepared by Richard C. Prima, Jr., Assistant City Engineer

JLR/RCP/lm

Attachments (Exhibits B and C; Exhibit A bound separately)

cc: Community Development Director  
City Attorney  
Car? Fink  
Felix Costa  
Jeryl Fry  
William T. Beckman  
Vera Perrin  
Charles Beckman  
Kjeldsen Sinnock

Exhibit on file in City Clerk's Office.

### South toti Sanitary Sewer Analysis

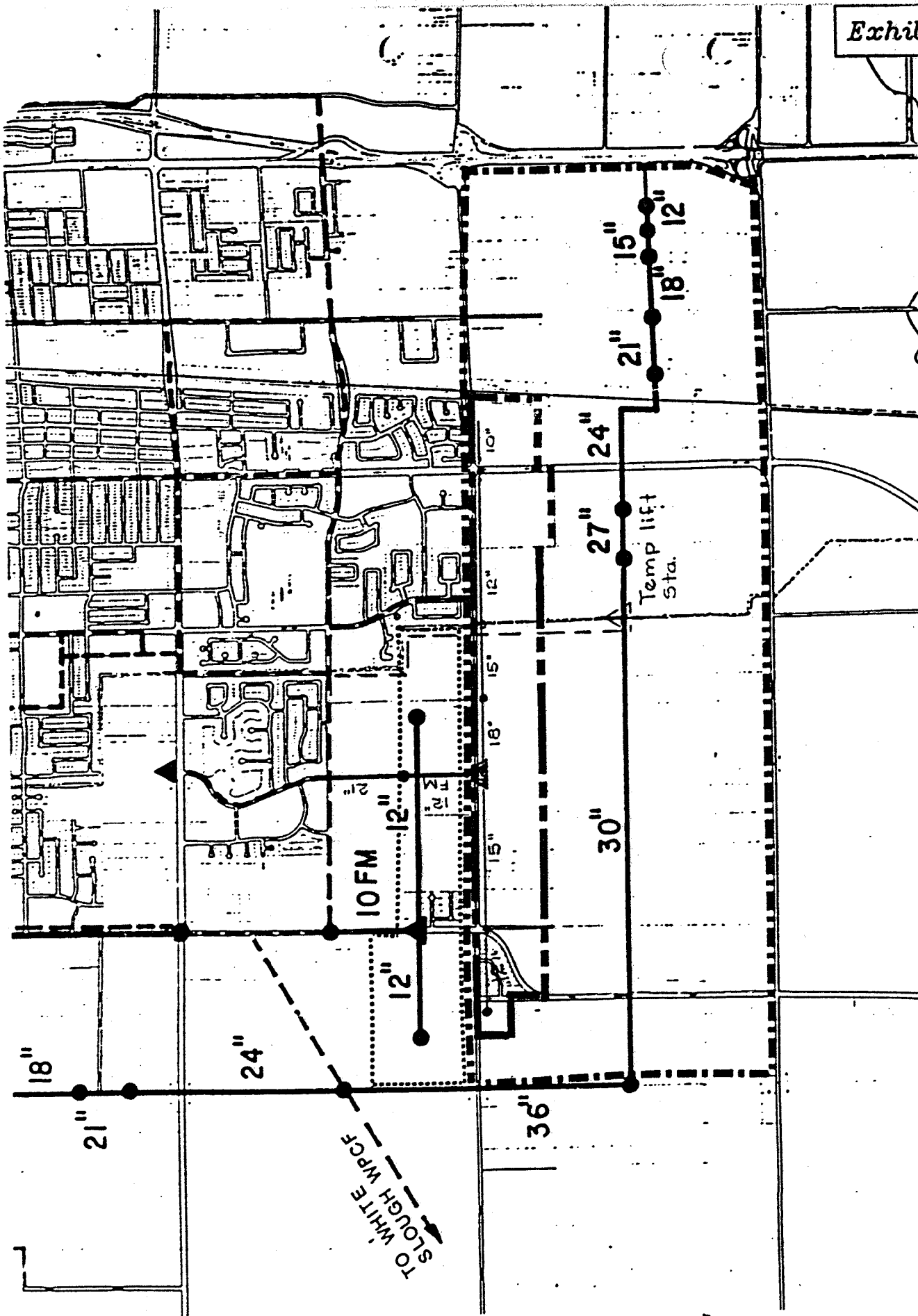
Existing Master Plan	Alt. 1	Alt. 2	Alt. 3	Alt. 4	Alt 4-1	Ait. 4-2
Area served: 292 acres North of Harney Ln.	244 acres North of Harney Ln.		546 acres North of Harney Ln. (Alt. 1&2) plus 302 acres south of Harney		244 acres North of Harney Ln.	302 acres South of Harney Ln.
Lift Sta. Location: Lower Sac. N/Harney	Lower Sac. @ Harney	Mills Ave. @ 'Harney	Lower Sac. @ Harney	Mills Ave. @ Harney	Mills Ave. @ Harney	
Lift Sta. Cost: \$280,000	\$285,000	\$298,000	\$478,000	\$433,000	\$390,000	\$43,000 <sup>3</sup>
Oversize Main Cost: \$67,000	\$70,000	\$92,000	\$227,000	\$211,000	8127,000	\$84,000 <sup>2</sup>
Total Cost: \$347,000 <sup>1</sup>	\$355,000	\$390,000	\$705,000	\$644,000 <sup>2</sup>	\$517,000	\$127,000
Cost above Ex. Plan/Alt. 1 to develop area north Harney:		\$39,000			\$166,000	
Cost per acre: \$1,200	\$1,500	\$1,600	\$1,300	\$1,200	82.100	\$400

**Notes:**

- <sup>1</sup> Costs per Nolte Development Impact Fee Study, CNR updated to July 1992
- <sup>2</sup> Costs per Kjeldsen-Sinnoek Study, July 1992
- <sup>3</sup> Firrt phase of lift station estimated by City at 90% of total cost
- <sup>4</sup> Ex. Master Plan & Alt. 1 resumed to br equivalent at average cost of \$351,000.

# Exhibit C

of 9/22/92  
Council  
communica-  
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Harvey Lane Lift Station Service Area (Ex Plan)  
"South Lodi" Service Area (additional 302 Acres)  
Planned Residential Development

- .....
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EXHIBIT

OCT 06 1992

City Attorney's Office

Neumiller & Beardslee

A PROFESSIONAL CORPORATION

ATTORNEYS AND COUNSELORS

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ML

October 5, 1992

VIA FACSIMILE

Mr. Bob McNatt  
City Attorney  
City of Lodi  
221 West Pine Street  
Lodi, California 95241

Re: Fry, Fink and Costa

Dear Mr. McNatt:

This letter will serve to confirm our conversation of **Friday, October 2, 1992**, regarding the City's concerns over compliance with the California Environmental Quality Act as it pertains to the oversizing of the **Mills** Avenue sewer line. During our discussion, I confirmed this office's position that the oversizing of the line can be accomplished through the use of a Negative Declaration, as opposed to an Environmental Impact Report. I believe both the Antioch and Heninger cases are distinguishable factually from the present case, and that our situation is more akin to that presented in the Plan For Arcadia case which we discussed on Friday. While we have agreed that this matter is not absolutely free of doubt, (and so few CEQA matters ever are) this office has enough confidence in its position that we would make the following offer of indemnification to the City.

"The property owners south of Harney Lane (Fry, Fink, Costa, Perrin, Beckman) will indemnify, defend, and hold harmless, the City of Lodi from and against any and all liability or actions accruing as a result of the City's decision to install an oversized sewer line into the extension of Mills Avenue, where such action or proceeding arises out of the City's approval of a Negative Declaration for said sewer line installation."

I would also like to clarify a statement made in our September 29 letter to the City Council. In our letter, we offered to **pay** the cost of oversizing the sewer line, provided the City could establish an Area of Benefit or other such district to reimburse my clients *at* a later date. My



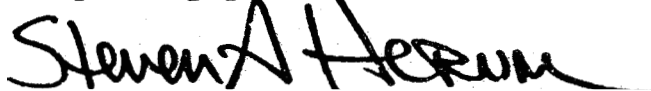
Mr. Bob McNatt  
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clients recognize that the establishment of an Area of Benefit or other assessment district is a process which requires both notice and consent of affected property owners. My clients are willing to assume the risk that an Area of Benefit or other assessment district might never be formed to allow them to recoup the upfront costs of oversizing the sewer line. Our only request would be that the City agree to use its best efforts to establish the Area of Benefit. In addition, my clients understand and agree that should the Council agree to the installation of the larger sewer line on Mills Avenue, there is no guarantee that (1) their property will be approved for development, or (2) that if approved, their property would benefit from the use of the line.

I trust this letter has been sufficient to clarify and elaborate on our position in this matter. I would appreciate it if you would convey this letter, or such summary hereof as you deem appropriate, to the City Council at the meeting on October 7. Thank you for your continued cooperation in this matter.

Very truly yours



STEVEN A. HERUM  
Attorney at Law

SAH/ch



# CITY OF LODI

## COUNCIL COMMUNICATION

AGENDA TITLE: Planning Commission Report of October 12, 1992

MEETING DATE: October 21, 1992

PREPARED BY: Community Development Director

### RECOMMENDED ACTION:

<u>AGENDA ITEM</u>	<u>RECOMMENDATION</u>
a.	Recommended that the issue of development south of Harney Lane be deferred until a future General Plan update when all the issues, alternatives and environmental impacts can be properly addressed with full public input.
b, c, d & e	Information only. No action required.

BACKGROUND INFORMATION: The following actions were taken at the last regular Planning Commission meeting of October 12, 1992.

b. Conditionally approved the request of Terry Piazza, Baumbach and Piazza Inc. on behalf of Irvin Bender for a lot line adjustment between 705, 709, 715 and 721 Camellia Court in an area zoned R-2, Single-Family Residential.

c. Continued consideration of the request of Gary Archer for a use permit for a temporary office trailer at 247 Commerce Street in an area zoned M-2, Heavy Industrial until October 26, 1992 because no one was present to represent the applicant.

d. Conditionally approved the request of Ford Construction Company, Inc. for a use permit for a temporary office trailer at 50b North Cluff Avenue in an area zoned M-2, Heavy Industrial.

e. Reaffirmed its previous position and required that the reversed frontages fences along Century Boulevard and South Stockton Street in Bangs Ranch Subdivision be grape stake with slumpstone pilaster and base and that the developer deposit with the City for fence maintenance the difference between that fence and masonry fence.

FUNDING: None required.

*James B. Schneider*  
James B. Schneider

(Community Development Director)

APPROVED \_\_\_\_\_

*Thomas A. Peterson*  
THOMAS A. PETERSON  
City Manager



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